

CITY OF SAN JOSÉ, CALIFORNIA
Department of Planning, Building and Code Enforcement
801 North First Street, Room 400
San José, California 95110-1795

Hearing Date/Agenda Number
P.C. 5/8/02 Item 3.a.

File Number
CP 01-08-069

Application Type
Conditional Use Permit

Council District 3

Planning Area
Central

Assessor's Parcel Number(s)
467-41-079

STAFF REPORT

PROJECT DESCRIPTION

Completed by: John Davidson

Location: southeast corner of S. Eleventh and E. San Carlos Streets

Gross Acreage: 0.14

Net Acreage: 0.14

Net Density: 8 DU/AC

Existing Zoning: CN Commercial

Existing Use: Office

Proposed Zoning: No Change

Proposed Use: Mixed Use, with Office on the ground floor, and Residential above

GENERAL PLAN

Completed by: JED

Land Use/Transportation Diagram Designation

Mixed Use with no Underlying Land Use Designation

Project Conformance:

☒ Yes ☐ No

☒ See Analysis and Recommendations

SURROUNDING LAND USES AND ZONING

Completed by: JED

North: Retail Commercial

CN Commercial

East: Residential

R-1-8 Single-Family Residence

South: Residential

CN Commercial

West: Office

CN Commercial

ENVIRONMENTAL STATUS

Completed by: JED

☐ Environmental Impact Report

☐ Negative Declaration circulated on

☐ Negative Declaration

☒ Exempt

☐ Environmental Review Incomplete

FILE HISTORY

Completed by: JED

Annexation Title: Original City

Date: March 27, 1850

PLANNING DEPARTMENT RECOMMENDATIONS AND ACTION

☒ Approval

☐ Approval with Conditions

☐ Denial

☐ Uphold Director's Decision

Date:

Approved by: _____

☐ Action

☐ Recommendation

APPLICANT/OWNER

SN300 Partnership
Attn: Marianne and Carl Salas
305 S. 11th Street
San Jose, CA 95112

PUBLIC AGENCY COMMENTS RECEIVED

Completed by: John Davidson

Department of Public Works

See conditions of approval.

Other Departments and Agencies

See conditions of approval.

GENERAL CORRESPONDENCE

None received.

ANALYSIS AND RECOMMENDATIONS

BACKGROUND

This request is for a Conditional Use Permit to allow a 1,600-square foot office and one residential unit in an existing residence and an alternating use parking arrangement on a 0.14-gross acre site in the CN Commercial Zoning District.

The applicant is proposing to operate a commercial office on the ground floor and construct a single residential unit on the second floor of an existing residence. The office is accessed from an entrance facing South 11th Street and another at the rear of the structure facing the parking lot. The upstairs dwelling unit, designed as a one-bedroom apartment, is accessed from a stair at the rear of the structure. The proposed mixed-use arrangement requires a Conditional Use Permit in the CN Commercial Zoning District. No exterior changes are proposed to the structure. Changes to the site include the introduction of an enclosure for trash and recycling, reconfiguration of the existing parking lot, and additional perimeter landscaping around the parking area. The existing structure appears to date from the turn of the century, and exhibits substantial architectural character. It is currently on the City of San Jose's Historic Resources Inventory as a part of the Naglee Park Conservation Area.

The applicant is also proposing an alternating use parking arrangement. Normally, seven parking spaces would be required under the Zoning Ordinance for the two uses--five parking spaces for the office use, and two additional spaces for the residential use. The applicant is proposing a total of five spaces on site, given that the two uses generate parking demand at complementary times during the day and week.

Surrounding uses include retail commercial to the north, offices to the west, and residential uses to the south and east.

ENVIRONMENTAL REVIEW

The project was found to be exempt from environmental review under Section 15301(n) of the CEQA Guidelines, which exempts existing facilities.

GENERAL PLAN CONFORMANCE

The proposal is consistent with the San Jose 2020 General Plan Land Use/Transportation Diagram designation of Mixed Use with no Underlying Land Use Designation, which states that, “A minimum of two uses must be combined to use this designation with no use occupying less than 10% of the site area or less than 10% of the total square footage of the building square footage proposed.” The uses and intensity ranges allowed for sites with this designation are listed in Appendix F, MU #6 of the General Plan. The use mix section of the Mixed Use Inventory calls for any combination of Office (up to 7,000 sq.ft.) and Medium High Density Residential (12-25 d.u./ac, or up to 6 units). The use includes residential housing at a density of 8 dwelling units to the acre. Even though the proposed unit density is lower than the density contemplated in the General Plan, it is considered consistent because the proposal meets the residential use intensity requirements in terms of numbers of units.

PUBLIC OUTREACH

Public Notices of the Planning Commission hearing on the Conditional Use Permit were mailed to area residents and owners of property within 500 feet of the subject site. Staff has been available to discuss the project with the public.

ANALYSIS

The primary issues associated with this project are land use compatibility and the proposed alternative parking arrangement.

Land Use Compatibility

The applicant is proposing to convert an existing residential structure to mixed use, with 1,400 square feet of office on the ground floor, and a single one-bedroom unit above. The dwelling unit includes a private balcony that overlooks the parking lot. The proposed mixture of uses is allowed with a Conditional Use Permit in the CN Commercial Zoning District. The current office use is considered conforming in the CN Commercial Zoning District.

Staff believes the 0.14 acre site can adequately accommodate the mixture of uses. The office use should not generate excessive noise, dust, fumes, or other impacts that would create a nuisance for the upstairs residents. The proposed mixed-use project would also be compatible with surrounding uses, which are a mixture of commercial and residential.

Alternating Use Parking Arrangement

In a situation where there are two or more different uses on a given site, the Zoning Ordinance requires the applicant to provide the required parking for each use. However, Zoning Ordinance Section 20.90.200 allows for, “Alternating use of common parking facilities where certain uses generate parking demands during hours when the remaining uses are not in operation (for example, if one use operates during the day time or on weekends, and the other use operates at night or on weekdays).” Office and residential uses generate parking demand at complementary times—office uses generate parking demand during normal work hours, and residential uses generate demand during non-work hours.

The alternating use parking arrangement allows less of the site to be taken up by paved parking area and driveway space. Requiring the full amount of parking would either make the office use infeasible in the current building, or require the removal or alteration of the current building to accommodate additional parking. The alternating use parking arrangement accommodates an existing building while allowing the site to be used consistent with the General Plan and Zoning Ordinance. The one-bedroom unit is not considered a standard single family dwelling, and therefore, the required parking need not be covered.

Conclusion

Based on the above analysis, staff concludes that the proposed Conditional Use Permit, as conditioned, would allow conversion of a single-family residence to mixed use with Office on the ground floor, and Residential above. The proposed mixed use project is consistent with the site's General Plan Land Use designation, and allowed in the CN Commercial Zoning District.

RECOMMENDATION

Planning Staff recommends that the Planning Commission approve the Conditional Use Permit and include the following findings and conditions in its Resolution.

The Planning Commission finds that the following are the relevant facts regarding this proposed project:

1. This site has a designation of Mixed Use with no Underlying Land Use Designation on the adopted San Jose 2020 General Plan Land Use/Transportation Diagram.
2. The Mixed Use Designation allows an intensity of use up to 7,000 sq.ft. of commercial space and 6 dwelling units, or any combination.
3. The 0.14 acre site is located in the CN Commercial Zoning District.
4. The project site is developed with a residential structure currently used as conforming office in the CN Commercial Zoning District.
5. The project proposes a mixture of 1,600 square feet of office use on the ground floor and a one-bedroom dwelling unit on the second floor.
6. No exterior changes are proposed to the structure.
7. Based upon the proposed mix of uses, seven parking spaces are required.
8. The project proposes five parking spaces and a shared, alternating use parking arrangement to provide the required amount of parking.
9. The office use generates demand for parking during weekdays work hours, while the dwelling unit requires parking on weekends and weekdays during non-work hours.

10. Under the provisions of Section 15301(n) of the State Guidelines for Implementation of the California Environmental Quality Act (CEQA), this project is exempt from the environmental review requirements of Title 21 of the San José Municipal Code, implementing the California Environmental Quality Act of 1970, as amended. The project will not have a significant adverse effect on the environment.
11. The site is surrounded on the north by retail and office commercial uses, on the east and south by residential uses and on the west by a campus ministry.

The Planning Commission concludes and finds based on an analysis of the above facts that:

1. The proposed project is consistent with the San Jose 2020 General Plan Land/Use Transportation Diagram designation of Mixed Use with no Underlying Land Use Designation.
2. The proposed project is in compliance with the requirements of the California Environmental Quality Act.
3. The proposed office use will be compatible with the second-floor dwelling and with uses in the surrounding neighborhood.
4. As conditioned in this Permit, the second-floor dwelling is compatible with existing uses on the site and in the vicinity.
5. Upon issuance of the Conditional Use Permit, the second-floor dwelling will be a conforming use.

Finally, based upon the above-stated findings and subject to the conditions set forth below, the Planning Commission finds that:

1. The proposed use at the location requested will not
 - a. Adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area; or
 - b. Impair the utility or value of property of other persons located in the vicinity of the site; or
 - c. Be detrimental to public health, safety or general welfare; and
2. The proposed site is adequate in size and shape to accommodate the yards, walls, fences, parking and loading facilities, landscaping and other development features prescribed in this title, or as is otherwise required in order to integrate said use with the uses in the surrounding areas; and
3. The proposed site is adequately served:
 - a. By highways or streets of sufficient width and improved as necessary to carry the kind and quality of traffic such use would generate; and

- b. By other public or private service facilities as are required.
4. The alternating use parking arrangement is appropriate for the site, in that:
- a. The number of off-street parking spaces provided in such parking facilities adequately meets the parking requirements of the individual buildings and uses as specified in Chapter 20.90 of the Zoning Ordinance;
 - b. It is reasonably certain that the parking facility shall continue to be provided and maintained at the same location for the service of the building or use for which the such facility is required, during the life of the building or use; and
 - c. The parking facility is reasonably convenient and accessible to the buildings or uses to be served.

In accordance with the findings set forth above, a Conditional Use Permit to use the subject property for said purpose specified above and subject to each and all of the conditions hereinafter set forth is hereby granted. This Planning Commission expressly declares that it would not have granted this permit except upon and subject to each and all of said conditions, each and all of which conditions shall run with the land and be binding upon the owner and all subsequent owners of the subject property, and all persons who use the subject property for the use conditionally permitted hereby.

CONDITIONS PRECEDENT

This Conditional Use Permit shall have no force or effect and the subject property shall not be used for the hereby permitted uses unless and until all things required by the below-enumerated precedent conditions shall have been performed or caused to be performed and this Resolution has been recorded with the County Recorder.

1. **Acceptance and Payment of Recording Fees.** The "Acceptance of Permit and Conditions" form shall be **signed, notarized, and returned** to the Department of City Planning within **60 days** from the date of issuance of the resolution granting the permit. *Failure to do so will result in this permit automatically expiring regardless of any other expiration date contained in this permit.* Fees for recording a Certificate of Permit with the Recorder for the County of Santa Clara must be submitted along with the Acceptance Form.

CONCURRENT CONDITIONS

The subject property shall be maintained and utilized in compliance with the below-enumerated conditions throughout the life of the permit:

1. **Sewage Treatment Demand.** Chapter 15.12 of Title 15 of the San José Municipal Code requires that all land development approvals and applications for such approvals in the City of San José shall provide notice to the applicant for, or recipient of, such approval that no vested right to a Building Permit shall accrue as the result of the granting of such approval when and if the City Manager makes a determination that the cumulative sewage treatment demand of the San José-Santa Clara Water

Pollution Control Plant represented by approved land uses in the area served by said Plant will cause the total sewage treatment demand to meet or exceed the capacity of San José-Santa Clara Water Pollution Control Plant to treat such sewage adequately and within the discharge standards imposed on the City by the State of California Regional Water Quality Control Board for the San Francisco Bay Region. Substantive conditions designed to decrease sanitary sewage associated with any land use approval may be imposed by the approval authority.

2. **Nuisance.** This use shall be operated in a manner that does not create a public or private nuisance. Any such nuisance must be abated immediately upon notice by the City.
3. **Conformance with Plans.** Construction and development shall conform to approved Planned Development Plans entitled, "Conditional Use Permit Work, 300 S. 11th Street" dated August 17, 2001, last revised December 21, 2001 on file with the Department of Planning, Building and Code Enforcement and to the San José Building Code (San José Municipal Code, Title 17, Chapter 17.04).
4. **Sign Approval.** No signs are approved at this time. All signs shall be subject to approval by the Director of Planning.
5. **Refuse.** All trash areas shall be effectively screened from view and covered and maintained in an orderly state to prevent water from entering into the garbage container. No outdoor storage is allowed/permitted unless designated on the approved plan set. Trash areas shall be maintained in a manner to discourage illegal dumping.
6. **Street Trees.** Street trees shall be planted on the street frontage to the satisfaction of the Director of the Department of Streets and Traffic. The location of the street trees shall be determined at the street improvement stage. Street trees shown on this permit are conceptual only. A permit for the planting is required from the Department of Streets and Traffic, (408) 277-4373.
7. **Public Works Clearance.** A Development Clearance shall be obtained from the Public Works Department, Room 308, (408) 277-5161, and is subject to the following requirements (3-15623) to the satisfaction of the Director of Public Works:
 - a. *Storm Drainage, Sewer Fees.* Storm drainage area fees, sanitary sewer connection fees and sewage treatment plant fees are due, less previous credits.
 - b. *Undergrounding.* The In Lieu Undergrounding Fee shall be paid to the City for all frontage adjacent to E. San Carlos Street prior to issuance of a Public Works clearance. 100 percent of the base fee in place at the time of payment will be due.
 - c. *Electroliers.* Installation or relocation of electroliers on project frontage may be required.
 - d. *Street Trees.* Street trees shall be planted within the public right-of-way along the entire street frontage per City standards. The location of the street trees shall be determined at the street improvement stage. Street trees shown on this permit are conceptual only. Contact the City Arborist at 277-2756 for the designated street tree.

- e. *Street Improvements.* Remove and replace broken or uplifted curb, gutter, and sidewalk along project frontage.
 - f. *Sidewalk.* Remove and replace curb gutter, and sidewalk along project frontage.
 - g. *Driveway.* Close unused driveway cuts. Proposed driveway to be 18' minimum.
 - h. *Asphalt.* Repair, overlay, or reconstruction of asphalt pavement may be required. The existing pavement will be evaluated with the street improvement plans and any necessary pavement restoration will be included as part of the final street improvement plans.
 - i. *Minor Improvement Permit.* The applicant will be required to satisfy all Public Works conditions prior to the issuance of a Public Works Clearance. The clearance will require the execution of a Minor Street Improvement Permit that guarantees the completion of the public improvements to the satisfaction of the Director of Public Works. This agreement may include privately engineered plans, bonds, insurance, a completion deposit, and engineering and inspection fees.
8. **Building Clearance for Issuing Permits.** Prior to the issuance of a Building Permit, the following requirements must be met to the satisfaction of the Chief Building Official:
- a. *Construction Plans.* This permit file number, CP 01-08-069, shall be printed on all construction plans submitted to the Building Division.
 - b. *Americans With Disabilities Act.* The applicant shall provide appropriate access as required by the Americans With Disabilities Act (ADA).
 - c. *Emergency Address Card.* The project developer shall file an Emergency Address Card, Form 200-14, with the City of San José Police Department.
9. **Anti-Graffiti.** The applicant shall remove all graffiti from the screen wall surfaces within 48 hours of defacement.
10. **Allowed Uses.** Use of the second story of the mixed-use building shall be limited to one residential unit as shown on the project plans. Use of the first floor of the mixed-use building shall be limited to Commercial Office space. Conversion to uses other than those specifically identified above, whether they are permitted or conditional pursuant Title 20 of the Municipal Code, shall require additional permits as determined necessary by the Director of Planning.
11. **Alternating Use Parking.** This permit includes an alternating use parking arrangement. Two on-site parking spaces are reserved for residential use Monday through Friday between 5 p.m. and 8 a.m. the following morning, and all day on Saturdays and Sundays. The other three parking spaces are reserved for office use. Parking spaces reserved for evening and weekend residential use, and parking reserved for office use, shall be explicitly labeled. Modification of the alternating use parking arrangement shall require review and approval by the Director of Planning.

CONDITIONS SUBSEQUENT

1. **Permit Expiration.** This Conditional Use Permit shall automatically expire two years from and after the date of adoption of the Resolution by the Planning Commission, or by the City Council on appeal, granting this Permit, if within such two-year period, the proposed use of this site or the construction of buildings has not commenced, pursuant to and in accordance with the provisions of this Conditional Use Permit. The date of adoption is the date the Resolution granting this Conditional Use Permit is approved by the Planning Commission. However, the Director of Planning may approve a Permit Adjustment to extend the validity of this Permit for a period of up to two years. The Permit Adjustment must be approved prior to the expiration of this Permit.
 2. **Revocation, Suspension, Modification.** This Conditional Use Permit may be revoked, suspended or modified by the Planning Commission, or by the City Council on appeal, at any time regardless of who is the owner of the subject property or who has the right to possession thereof or who is using the same at such time, whenever, after a noticed hearing in accordance with Part 3, Chapter 20.100, Title 20 of the San José Municipal Code it finds:
 - a. A violation of any conditions of the Conditional Use Permit was not abated, corrected or rectified within the time specified on the notice of violation; or
 - b. A violation of any City ordinance or State law was not abated, corrected or rectified within the time specified on the notice of violation; or
 - c. The use as presently conducted creates a nuisance.
- c: Building Division (2)
Engineering Services